

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MALIBU MEDIA, LLC,)	
)	
Plaintiff-Judgment Debtor,)	
)	
v.)	
)	
WILLIAM MULLINS,)	No. 18 C 6447
)	
Defendant-Judgment Creditor,)	Judge Thomas M. Durkin
)	
and)	
)	
CC BILL, LLC,)	
)	
Third-party Citation Respondent.)	

MOTION FOR TURNOVER ORDER DIRECTED TO CC BILL, LLC

William Mullins, through the Peacock Law Group, moves this court for a turnover order directed to CC Bill, LLC for \$17,635.04. CC Bill is restraining “X-Art.com Proceeds” pursuant to a citation to discover assets to secure the payment of the balance due on the court’s November 29, 2021, amended judgment for attorney fees, which has a current balance of \$17,635.04. Mullins seeks a turnover order to satisfy the remaining balance, and in further support of his motion, he states:

1. The court originally entered judgment in favor of Mullins and against Malibu Media for \$48,656.73 plus interest and costs. On April 20, 2021, the Clerk of Court issued a citation to discover assets directed to Malibu Media and its designated

corporate representative, Colette Pelissier. When Pelissier failed to abide by the citation, Mullins obtained an asset restraining order from the court. Dkt. 117.

2. The asset restraining order defines “X-Art.com Proceeds” as “the proceeds of the X-art.com website’s commercial activity.” August 12, 2021, asset restraining order, Dkt. 117 at p. 2. This court subsequently issued a declaratory ruling finding among other things that: (1) Malibu Media is the fee simple owner of the X-Art.com Proceeds; and (2) by virtue of the citation to discover assets Mullins served on Malibu Media, Mullins has an execution lien in the X-Art.com Proceeds to secure the payment of his judgment. Dkt 125 at ¶ 18. By two turnover orders directed to Epoch.com, LLC the original \$48,656.73 judgment was satisfied in December 2021.

3. On November 29, 2021, this court entered an amended judgment (in addition to the original \$48,656.73 judgment) in favor of Mullins and jointly and severally against ZO Digital, Malibu Media, and Colette Pelissier for attorney fees of \$59,614.52 (for the use and benefit of The Peacock Law Group). Dkt. 145. The amended judgment consists of statutory civil penalties assessed against those parties for disobeying the restraining provision of the citation to discover assets and disobeying numerous court orders to produce asset information.

4. On February 28, 2022, the court granted Mullins’ third motion for a turnover order directed to Epoch.com, LLC for \$41,979.48 in X-Art.com Proceeds that Epoch held. Dkt 159. Epoch, who has terminated its relationship with Malibu Media, complied with that turnover order and thus reduced the amended judgment balance to \$17,635.04.

5. On March 29, 2022, the Clerk of Court issued a citation to discover assets directed to CC Bill, LLC, an Arizona limited liability company that processes credit card transactions. On March 30, 2022, Mullins caused service of the citation on CC Bill with notice to the judgment debtors. Dkt 171 (proof of service). Mullins also provided CC Bill with copies of the court's restraining order (Dkt 117) and subsequent order, which found the X-Art.com Proceeds to be property of Malibu Media and subject to Mullins judgment. Dkt 133.

6. On April 11, 2022, CC Bill answered the citation to discover assets. Ex. A. In its answer, CC Bill stated that since Mullins served CC Bill with the citation on March 30, 2022, CC Bill is restraining X-Art.com Proceeds totaling \$24,041.51 and in excess of \$17,635.04 judgment balance. Answer at ¶ 1 and addendum (indicating X-Art.com Proceeds of \$24,041.51).¹ CC Bill further stated that there are no prior garnishments or court-ordered withholdings directed to the funds they are restraining. *Id.* at ¶ 4. CC Bill's answer interposed no objection, defense or set-off to Mullins' right to apply the restrained funds to the amended judgment. *Id.* at ¶ 6.

7. Based on communications with CC Bill, the undersigned is informed and believes that CC Bill has been processing credit card transactions for X-Art.com since about 2005 to date and *continuously through 2021*. The undersigned is further informed and believes that during 2021 CC Bill was processing such X-Art.com

¹ When it provided a provisional answer, CC Bill indicated it was processing credit card transactions for four websites: X-Art.com; Colette.com; superhot.com; and eroticvideos.com. Thereafter, CC Bill agreed to provide an answer specifying the revenue for X-Art.com and did so in its April 11, 2022, answer.

transactions *in addition* to Epoch.com, LLC. Nonetheless, neither ZO Digital, Malibu Media, Brigham Field, nor Colette Pelissier restrained or disclosed X-Art.com Proceeds being processed by CC Bill. However, each one of them were obligated to do so under the asset restraining order. Dkt 117 at pp. 5-6. CC Bill records produced to Mullins show that CC Bill was remitting revenue from four websites, including X-Art.com (n. 1), of about **\$22,000 per week** from about August 12, 2021, when the court issued its asset restraining order, to March 30, 2022, when CC Bill was served with the citation to discover asset's restraining notice. These "CC Bill" funds, of course, are separate from the funds Epoch.com restrained and turned over.

8. Accordingly, the court should order CC Bill to turn over to Mullins \$17,635.04, which will extinguish the judgment debt. CC Bill should issue payment to: "The Peacock Law Group Client Trust Fund Account" and tender such payment via Federal Express at the expense of Mullins.

WHEREFORE, Mullins requests that this court direct CC Bill to turn over to Mullins (for the use and benefit of the Peacock Law Group) \$17,635.04 to satisfy the amended judgment.

Respectfully submitted,

WILLIAM MULLINS
THE PEACOCK LAW GROUP

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Malibu Media)
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CC BILL, LLC.,) Judge: Thomas M. Durkin
Third Party Citation Respondent.)

ANSWER OF THIRD PARTY CITATION RESPONDENT

I, Rita Gutierrez (name), the Merchant Support Supervisor (title) of Respondent, CCBill, LLC (entity's legal name), state under penalty of perjury as follows: the Respondent is a LLC (e.g., partnership, corporation, etc.) organized under the laws of the State of Arizona.

On March 30th, 2022, Respondent was served with the Third Party Citation to Discover Assets. With respect to any one or all of the judgment debtors, Malibu Media, LLC, ZO Digital, LLC, and Colette Pelissier, on the day Respondent was served with the Citation, Respondent had in its possession or control the following property of Brigham Field (name of judgment debtor):

1. Financial Accounts

Account 1

Account type: CCBill Account Payout
Account No.: 928532-ALL
Amount: \$ 35,780.80
Amount withheld: \$ 35,780.80*

Account 2

Account type: _____
Account No.: _____
Amount: \$ _____
Amount withheld: \$ _____

*Please see Addendum to Answer of CCBill, LLC

Exhibit A

Account 3

Account type:_____

Account No.:_____

Amount: \$_____

Amount withheld: \$_____

Account 4

Account type:_____

Account No.:_____

Amount: \$_____

Amount withheld: \$_____

2. Safety Deposit Box

Box No.:

Amount: \$_____

Owners other than the judgment debtor: _____

3. Detail other personal property in the respondent's possession or control:

4. Are there prior garnishments or other court-ordered withholdings which are presently in effect including, but not limited to child support and alimony?

Yes ___ No X

If the answer is yes, describe below.

5. Does the Respondent have custody, control, or possession of any property, other than accounts, safety deposit boxes or other personal property, now owed or to be paid in the future, in which the judgment debtor has an interest?

Yes ___ No X

If yes, please describe below (continue on additional sheets if necessary):

6. Check and complete the applicable line below if you deny that you hold property subject to this Citation to Discover Assets.

_____ The Respondent has the following objections, defenses, or set-offs to the judgment creditor's right to apply Respondent's indebtedness to its judgment: _____

_____ On the date the Respondent was served with the Citation to Discover Assets, Respondent was not indebted or under liability to the defendant, and/or did not have in its possession or control any assets, income or other property belonging to Respondent, or in which the defendant has an interest.

7. The original Answer must be delivered in person or sent by first class mail to The Peacock Law Group, 161 N. Clark Street, Suite 1600, Chicago, Illinois 60604.

8. The Respondent mailed a copy of this Answer by first-class mail to the judgment debtor/account holder at _____

VERIFICATION

Pursuant to 28 U.S.C. § 1746, I verify under penalty of perjury that the foregoing is true and correct.

Executed this 11th day of April 2022.

Rita Gutierrez

(Please print and sign name.)

Phone No.:

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DECLARATION OF CUSTODIAN OF RECORDS

I, Rita Gutierrez, hereby declare under penalty of perjury that the following statements are true and correct to the best of my knowledge and belief:

1. I am a duly authorized custodian of records in the employ of CC Bill, LLC with authority to certify said records.

2. The accompanying records are the originals or true copies of records made and kept in the regular scope and course of my employer's regularly conducted activity and constitute all of the records called for in the citation heretofore served in this matter.

3. The entries contained in the original records were prepared by persons having actual knowledge thereof, or with information transmitted by a person with actual knowledge, at or near the times of the occurrences of the matters which they purport to describe.

SIGNED AND EXECUTED this 11th day of April 2022., LLC

Rita Gutierrez

(Please print and sign name.)

Custodian of Records for CC Bill

Addendum to Answer of CCBill, LLC

April 11th, 2022

Amount currently held for 928532 and all subaccounts is \$35,780.80.

The amount held for x-art.com, subaccounts 0001 and 0002 is \$24,041.51.